Supreme Court, U.S.
FILED
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No. 05-_____

In The

Supreme Court of the United States

Daniel E. Zurla,

Petitioner, pro se

v.

The City of Daytona Beach &
The City of Port Orange,

Respondents

On Petition for Writ of Certiorari
To the Supreme Court of Florida

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Is Respondent cities act, mandating golf carts on a Public golf course, depriving Petitioner of his Civil Rights?
1. Is Respondent cities act, mandating golf carts on a public golf course, in the best interest of public welfare?
2. Did all three levels of the Florida Judicial System err in denying Petitioner's cause?

PARTIES TO THE PRECEEDINGS

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PETITION FOR WRIT OF CERTIORARI

Petitioner Daniel E. Zurla respectfully petitions for a writ of certiorari to review the order rendered in his case by the Florida Supreme Court (FSC) (Appendix pg. 1a).

OPINIONS BELOW

The opinion of the Supreme Court of Florida (Pet. App. 1a-2a). The opinion of the Fifth Dist. Court of Appeals, State of Florida (Pet. App. 3a-5a). The opinion of the Seventh Judicial Circuit Court, Volusia Co. Florida (Pet. App. 6a-8a).

JURISDICTION

The Florida Supreme Court entered its opinion on December 8, 2004. This court has jurisdiction pursuant to 28 U.S.C.A. Sect. 1257, and Article III of the U.S. Constitution.

RELEVANT CONSTITUTIONAL PROVISION

The XIV Amendment to the U.S. Constitution provides, in relevant part: "No state shall make or enforce any law which shall abridge the privileges...of citizens of the U.S.; nor shall any state deprive any person of...Liberty..."

RELEVANT POLICE POWER PROVISION

16A, Am. Jur., 2d, Const. Law, Sect. 315, defines, in relevant part: "state's police power is concerned with whatever affects the peace, security, safety, morals, health, and general welfare of the community; ... its standard is reasonableness."

CONSTITUTIONAL STATEMENT

The crux of this case is: **Respondent Cities mandate that golfers must ride a golf cart (walking is prohibited) when playing golf at their state owned municipal/ public golf courses.** Petitioner contends Respondents act of mandating carts on public land is the type of act the XIV Amend. to the U.S. Const. prohibits the states from doing. A state mandating carts is a state making and enforcing laws which abridges privileges, and deprives Liberty; and Liberty means freedom/right to choose between walking and riding a golf cart. Petitioner also contends, walking is legal, and no state has the authority to write unreasonable laws that make walking illegal on public land. Therefore, their actions are unconstitutional. In support of these contentions, Petitioner cited three cases defining Liberty and other interest protected by the U.S. Const.: (1) "Liberty means that a citizen shall be protected in the right to use his power of mind and body in any lawful calling." *Smith v. Texas*, 58 L.Ed., 1132(1914). It's apparent from this decision that people can use their mind to choose to walk, and their body to walk, both are of course lawful. (2) "Wherever the title of streets and parks may rest, they have immemorially been held in trust for use of the public...Such use of the streets and public places has, from ancient times, been a part of the privileges, rights, and liberty of citizens." *Hague v. Comm. for Ind. Org.*, 83 L.Ed., 1436-37(1938). Thus, it is apparent that people can use their Liberty (right to choose to walk) on public land that is in fact held in trust for them. (3) "The Act is unconstitutional because it poses an undue burden on a woman's right to choose..." *Planned Parenthood v. Ashcroft*, No. C03-4872 U.S. Dist. of N. Calif., 19&117(6-1-04). Hence, Petitioner contends, LIBERTY, Right to choose, is Paramount!

The above STATEMENT, though condensed, is what was presented in Petitioner's appeal to the FSC. Based on

the STATEMENT above, Petitioner contends the answer to question (1) is, YES; Respondent's act of mandating golf carts on a public golf course deprives Petitioner of his Civil Rights; thus, this act is unconstitutional.

POLICE POWER STATEMENT

In *McInerny v. Ervin*,46 So.,2d,463(1950), the judge said, (Blackstone defined police power "the welfare of the people is the supreme law"). In *Eelbeck Milling Co. v. Nathan T. Mayo*,86 So.,2d,439(Fla.1956), Judge said, (In order to avoid infringements on Const. Rights...police power must be confined to those acts which are expedient for the protection of public safety, welfare, morals, or health).

President Bush and some of his staff, Florida's Governor and some of his staff, plus most of the medical community are saying; "64% of the adults in our country are overweight or obese and the solution is eat less and **exercise more."** Mandating golf carts deprives walking exercise; Thus, respondent cities are operating contrary to the recommendation to get more exercise; and their action is not in the interest of public health & welfare. Following is a list of more reasons why mandating golf carts is not in the best interest of public welfare: (1) Golf carts are very heavy and do damage to golf courses. (2) Golf carts use fuel and pollute. (3) Using fuel makes the U.S. more dependent on the Middle East for oil. (4) Cart riders are usually more unfit and overweight, thus, they usually cannot play as well and play slower. (5) Petitioner has letters from golf course superintendents saying cart golfers are usually slower. (6) Carts add expense to the walking golfer. (7) Golf is a walking game.

For all of the above reasons, petitioner contends that respondents act is not necessary, reasonable or in the interest of public health & welfare; thus, they are not within the confines of their police power; and the answer to question (2) is; NO; Respondent cities act, mandating golf carts on a public golf course, is not in the best interest of public health and welfare; and cites, "An act must find its justification in the police power of the state, or it must be declared invalid", *State v. Williams* 117S.E.,2d,447(N.C. 60).

FLORIDA SUPREME COURT ERRED

In appendix: Page 2a, Petitioner correctly asked for the Fla. Supreme Court (FSC) discretionary jurisdiction on this Constitutional issue. Since the FSC had the case for five months; and the cause was more than eight years old and petitioner wanted closure; and Const. issues were involved; petitioner suggested the FSC consider filing a "Request for Certification" or allow petitioner to file a "Petition for an extraordinary writ". The FSC never responded. Then on Wed., Dec. 8, 2004 the FSC issued their order; without saying WHY, the FSC declined jurisdiction, and denied the petition, See Page 1a, of appendix. Hence, Petitioner assumes that the FSC is using their discretionary jurisdiction and/or is agreeing with the two lower tribunal decisions that, "Petitioner has not identified a liberty interest protected by the Const." Petitioner contends he has repeatedly shown all three levels of the Fla. judicial system the Const. guaranteed "Privileges, Rights, and Liberty interest" he and the people are being denied. When a state mandates golf carts, on a public golf course, they are depriving petitioner and the people of Const. guaranteed Privileges, Rights, and Liberty; i.e., Right to choose walking on a public golf course. Also, petitioner contends he has repeatedly shown all three levels of the Fla. Judicial system that the respondent cities act is not

within the confines of their police power. See STATEMENTS above. Hence, the answer to question (3) is, YES, the FSC erred in declining jurisdiction, and denying petitioner's appeal. Petitioner contends the respondent cities and the Fla. judicial system misconstrue provisions of the Const. and police power. Since Petitioner has exhausted his rights under the Fla. court system, his only recourse is the Supreme Court of the United States.

ADDITIONAL RELEVANT INFORMATION

From the very onset of this case plaintiff has never wavered in his attempts to show two things: (1) the defendant's act of mandating golf carts deprives plaintiff of the right to walk on public land. (2) Defendant's act is "unreasonable and not for the public good." The above two items are copied from plaintiff's amended complaint, dated April 9, 2003. Plaintiff contends either of the above two items is adequate cause for judges to rule in his favor.

In early July, 03, there was a conference held in Circuit Court, Judge John W. Watson III chambers, to review the Apr. 9, 03 amended complaint. At the end of that meeting, in part, the following was exchanged: defendants said, "Plaintiff has not adequately identified a liberty interest he is being deprived of." Judge John S. Watson III then looked at me (plaintiff) and said, "I agree with the defendants, you have not adequately identified a liberty interest that you are being deprived of. I would like you to rewrite this complaint. Don't you know a lawyer at the golf course or somewhere that can help you to correctly prepare this complaint?" Being an unsure, unassuming, novice at law, filing his first complaint, I trusted the Judge. I assumed he would help and guide both parties while reaching a fair decision; i.e., hear and decide in a fair and impartial way. This assumption later proved to be my nemesis. I followed

the Judge's order and hired a lawyer to rewrite my amended complaint. A few weeks later another informal conference took place to review the second amended complaint. Afterwards, defendants filed a motion to dismiss. Judge John W. Watson III signed that motion which in part said, "Second Amended Complaint fails to specifically identify a liberty interest protected by the U.S. Constitution."

Petitioner appealed to the 5th Dist. Court of Appeals. Petitioner contends: After the 5th Dist. Court of Appeals agreed with Judge Watson, plaintiff began to realize he had been conned, and boondoggled by the defense attorneys and Judge John W. Watson III. Petitioner should not have trusted and followed Judge Watson's order to rewrite the April 9, 2003 amended complaint. Specifically, plaintiff contends, the judge should not have ordered him to rewrite his amended complaint; because, the amended complaint did identify a liberty interest plaintiff is being deprived of; i.e., the right to walk on public land; and this liberty interest is protected by the Constitution.

Also, plaintiff contends; that Florida Judges have ignored the police power aspects of this case; he has repeatedly shown that defendants are not within the confines of their police power; i.e., the defendants are not acting "reasonable and in the best interest of public health and public welfare"; and this illegal act is in and of itself adequate cause for a ruling in plaintiff's favor. See *State v. Williams*, supra.

Plaintiff contends, this case could have and should have been settled in Circuit Court.

Petitioner contacted the State of New York, the Cities of Los Angeles, Boston, Detroit, plus numerous other governments throughout the U.S.; and none of them mandates golf carts. This epidemic of mandating golf carts seems to be rampant only in Florida. Petitioner has letters

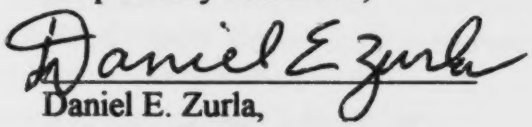
from the Respondent cities saying that they mandate carts for the added revenue produced. Respondents say that state proprietary law allows them to mandate carts. For eight years respondent's officials (and now for two years Fla. judicial officials) have evaded discussing the fact that Fla. proprietary law says they only have this power if they are not violating the Constitution. Petitioner contends these officials stubbornly refuse to give up the added revenue received from mandated golf cart rentals at public golf courses; regardless of the fact that they are depriving petitioner and the people of their Civil Rights. Petitioner contends that states cannot use their police power for the sole purpose of increasing state revenue; or, the people would not have any Civil Rights!

Petitioner contends that in the preamble and the Constitution it is apparent that Public Welfare and Liberty are the heart and soul of the Constitution; and the Constitution is the foundation of the United States. History shows us that it is the Constitution that protects the American people from oppression and tyranny. Therefore, the Respondent cities and states must not be allowed to deprive the people of any Constitutionally guaranteed Privileges, Rights and Liberty or soon thereafter the people will not have Privileges, Rights and LIBERTY.

REASONS FOR GRANTING THIS WRIT

Petitioner contends he has repeatedly shown that the Respondent cities act is illegal because; (1) it violates the Constitutional; (2) the respondent cities are not within the confines of their police power. Also, Petitioner contends he has shown that all three levels of the Florida courts erred. Therefore, Petitioner contends; for the foregoing reasons, this petition for a writ of certiorari should be granted.

Respectfully submitted,



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January 27, 2005

APPENDIX

DANIEL E. ZURLA,
Plaintiff-Petitioner, pro se,

v.

THE CITY OF DAYTONA BEACH, and
THE CITY OF PORT ORANGE,
Defendants-Respondents.

No. SC04-1388

SUPREME COURT OF FLORIDA

July 14, 2004, Filed

COUNCIL: Daniel E. Zurla, Port Orange, Fla., Plaintiff-Petitioner, pro se.

Ben S. Gross, Esq., Daytona Beach Asst. City Attorney; and Terrence R. Perkins, for the City of Port Orange. Both for the defendants-respondents.

BACKGROUND

In Petitioner's appeal to the FSC, Petitioner cited rule 9.030(a)(A)(ii) from the Fla. Rules App. P., "The discretionary jurisdiction of the FSC may be sought to review decisions of district courts of appeal that expressly construe a provision of the state or federal constitution."

Both respondents said in their Briefs that petitioner correctly cited the rule as a basis for invoking the FSC discretionary Jurisdiction.

Petitioner's position remains the same; i.e., (1) respondent cities act deprives petitioner of his right to walk

on a public golf course. (2) Respondent cities act is "unreasonable and not for the public good." Here is where petitioner adds, "right to choose" walking at a public golf course, *Planned Parenthood v. Ashcroft*, (6-1-04), supra;

OPINION

"This cause having heretofore been submitted to the court on jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Art. V. Section 3(b), Florida Constitution, and the Court having determined that it should decline to accept jurisdiction, it is ordered that the petition for review is denied."

"No motion for rehearing will be entertained by the Court. See Fla. Rules App. P. 9.330(d)."

PARIENTE, C.J., and LEWIS, QUENCE, CANTERO, and BELL, JJ., concur.
"s/Thomas D. Hall", Clerk, Supreme Court. Dec. 8, 2004

CONCLUSION

After the opinions, from this court and the 5th Dist. Court of Appeals, it was really soaking in. Petitioner contends; the respondent city attorneys and Judge John W. Watson III had conned and boondoggled the petitioner; i.e., Judge Watson had gotten me (petitioner) to rewrite a perfectly good amended complaint that described the liberty right I was being denied; i.e., the right to walk on public land. Also, respondent state officials are not going to give up the state's added revenue derived from cart rentals; regardless if the states are violating the Constitution. The only way petitioner will get Constitutionally guaranteed Rights is in the U.S. Supreme Court.

DANIEL E. ZURLA,
Plaintiff-Appellant, pro se,

v.

THE CITY OF DAYTONA BEACH &
THE CITY OF PORT ORANGE,
Defendants-Appellees.

FIFTH DISTRICT COURT OF APPEALS
STATE OF FLORIDA

No. 5D03-3610

June 1, 2004, Filed

COUNCEL; Daniel E. Zurla, Port Orange, Fla., Plaintiff-Appellant, pro se.

Ben S. Gross, Esq., Daytona Beach Asst. City Attn.; & Terrence R. Perkins, for the city of Port Orange, Fla., Both for the Appellees.

Appellant filed a REQUEST FOR A REHEARING. In it Appellant contends the Appeal Judges erred in agreeing with the learned trial Judge's dismissal order of the second amended complain. Appellant then put added emphases on the fact that mandating carts is making laws; and that these laws are depriving Appellant of his Constitutionally guaranteed Privileges, Rights and Liberty; i.e., the right to walk on public land.

MOTION FOR REHEARING, DENIED.

s/Frank J. Habershaw, Clerk Dated July 6, 2004

DANIEL E. ZURLA,
Plaintiff-Appellant, pro se,

v.

THE CITY OF DAYTONA BEACH &
THE CITY OF PORT ORANGE,
Defendants-Appellees.

FIFTH DISTRICT COURT OF APPEALS
STATE OF FLORIDA

No. 5DO3-3612

October 31, 2003, Filed

COUNCEL: Daniel E. Zurla, Port Orange, Fla., Plaintiff- Appellant, pro se.

Ben S. Gross, Esq., Daytona Beach Asst. City Attn.; and Michael S. Orfinger, for the City of Port Orange, Fla. Both for the Appellees.

Before the Court for consideration is the Appeal filed by Daniel E. Zurla, Appellant. In this appeal the positions of both parties is basically the same as the motion in the SEVENTH CIRCUIT COURT, except; Appellant contends that the Circuit Court erred in GRANTING DEFENDANTS MOTION TO DISMISS. Appellant's position remains the same throughout all proceedings in the Florida courts; i.e., (1) defendants act "deprives petitioner of his right to walk on public golf courses." (2) Defendants act is "unreasonable and not for public good".

Appellant contends that the Appellees act is un-Constitutional and illegal. Therefore, Appellant contends this Appeal Court should grant his Appeal.

Judge closed by saying, we agree that the learned trial judge's dismissal order accurately analyzed the second amended complaint, that, "The second amended complaint fails to specifically identify a liberty interest protected by the U.S. Constitution." Plaintiff's claim fails to state a cause of action and must be dismissed.

AFFIRMED.

Opinion Filed May 28, 2004

PLEUS, J., SAWAYA, C.J., & PALMER, J., concur.

DANIEL E. ZURLA,
Plaintiff, pro se,

v.

THE CITY OF DAYTONA BEACH, &
THE CITY OF PORT ORANGE,
Defendants.

SEVENTH JUDICIAL CIRCUIT COURT
VOLUSIA COUNTY FLORIDA

No. 2003-30136 CICI

January 22, 2003, Filed

COUNSEL: Daniel E. Zurla, Port Orange, Fla., Plaintiff, pro se.

Ben S. Gross, Esq., Daytona Beach Asst. City Attn.; and Michael S. Orfinger, for the City of Port Orange, Fla. Both for the defendants.

Before the Court for consideration is the motion for a Trial. On April 9, 2003 plaintiff filed an amended complaint. In the amended complaint plaintiff defined the defendants act of mandating that walking golfers must ride a golf carts when playing golf at their municipal/public golf courses; and then made the following two allegations; (1) "Mandating golf carts...denies plaintiff walking access, or restricts plaintiff's walking privileges, at these public facilities, thus violating plaintiff's privileges and right of liberty under the 14 Amend. to the U.S. Const..." (2) Defendants act is "unreasonable and not for the public good"; i.e., not within the confines of police power.

Plaintiff contends that the act, mandating carts on

public golf courses, is the very kind of act the XIV Amend. to the Const. prohibits to the states; i.e., "No state shall make or enforce laws that abridge privileges;...nor deprive Liberty"; the act of mandating carts is making laws that deprives plaintiff of the right to walk on public land.

Defendants say, State proprietary law allows the state power to mandate carts to increase revenue. The Defendants further contend that Plaintiff has not identified a Liberty interest protected by the Const.

Plaintiff's response is, State proprietary law allows their action as long as they are not violating the Constitution, which they are. The Constitution is the Supreme Law of the Land, Art. VI of the Constitution. Also, Plaintiff contends he has identified Privileges, Rights and Liberty interest he is being deprived; i.e., the right to walk on public land.

Except for, *Planned Parenthood v. Ashcroft*, (6-1-04), supra; every case, law, & statute cited has been cited in every brief throughout this case. *Planned Parenthood v. Ashcroft*, (6-1-04), supra, was added to the FSC brief.

Plaintiff further contends; the President & his staff, Florida's governor and his staff, and the medical community, are saying that 64% of U.S. adults are overweight or obese, and the solution is "eat less and exercise more"; therefore, respondents act deprives exercise; and is not in the interest of public health and public welfare.

Wrapping up, defendants make many claims, one of which is, that plaintiff has not identified a liberty interest he is being deprived of. Judge John W. Watson III then looked at me (plaintiff) and said, "I agree with the defendants, you have not adequately identified a liberty interest that you are being deprived of. I would like you to rewrite this complaint. Don't you know a lawyer at the golf course or somewhere that can help you to correctly prepare this complaint?" I trusted the judge. I hired an attorney to

rewrite the compliant. This would later prove to be a big mistake; it would later become my nemesis.

On October 7, 2003 Defendants filed a motion to dismiss. Defendants contend that Plaintiff's Complaint fails to specifically identify a liberty interest protected by the U.S. Constitution.

Accordingly, it is hereby ORDERED AND ADJUDGED that defendants Motion to Dismiss Second Amended Complaint is GRANTED.

DATED: Oct. 10, 2003

John W. Watson III, Circuit Judge

PETITION

FOR

RE-HEARING

(2)

MAY 12 2005

No. 04-1101

In The

Supreme Court of the United States

Daniel E. Zurla,

Petitioner, pro se

v.

The City of Daytona Beach &
The City of Port Orange,

Respondents

On Petition for Rehearing-Writ of Certiorari
To the Supreme Court of the United States

PETITION FOR REHEARING- WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does Plaintiff's Amended Complaint (dated April 9, 2003) state a cause of action?

2. Does plaintiff's Amended Complaint identify plaintiff's deprived privileges, rights, and liberty interest that are protected by the Constitution?

3. Does Plaintiff's Amended Complaint identify defendant's illegal and unconstitutional act of mandating golf carts on public land?

4. Did Circuit Judge Watson err in DISMISSING plaintiff's Amended Complaint; and then, giving plaintiff 20 days to amend and re-file a Second Amended Complaint?

5. Did Judge Watson err in his DISMISSAL ORDER, dated Oct. 10, 2003, when he said, "Plaintiff has been afforded three opportunities to state a cause for action, all without success?"

PARTIES TO THE PRECEEDINGS

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Ben Gross, Esq., Daytona Beach Assistant Attorney, P.O. Box 2451, Dayton Beach, FL 32115-2451, Phone (386) 671-8040, for the Defendants-Respondents, the City of Daytona Beach, Fla.

REHEARING-WRIT OF CERTIORARI

Petitioner Daniel E. Zurla respectfully petitions for a rehearing on his writ of certiorari to review the order rendered in his case by the United States Supreme Court (US-SC) on April 18, 2005 (Appendix pg. 1a).

OPINIONS BELOW

The opinion of the US-SC, dated April 18, 2005 (App. Pg. 1a). The 1st opinion of the Seventh Judicial Circuit Court, Volusia Co., Florida dated June 26, 2005. (App. 7a). The final opinion of the Seventh Judicial Circuit Court, Volusia Co., Florida dated Oct. 10, 2003. (App. 8a).

JURISDICTION

The United States Supreme Court entered its opinion on April 18, 2005. This court has jurisdiction pursuant to SCR 44(2), 28 U.S.C. 1651(a), and Article III of the US Const.

STATEMENT

Petitioner contends he needs this rehearing to show that Seventh Judicial Circuit Court Judge John W. Watson III (Judge Watson) erred, not once, but, twice, in dismissing Plaintiff Zurla's Complaints:

The first time Judge Watson erred was on June 26, 2003 when he wrote a letter and an order (1st dismissal order) (App. 6a,7a) dismissing plaintiff's Amended Complaint (Amended Complaint) (April 9, 2003)(App. 5a) and giving plaintiff 20 days to amend and re-write a Second Amended Complaint;

The second time Judge Watson erred is on Oct. 10, 2003 in his final ORDER (2nd dismissal order) (App. 8a).

Alleged 1st error of Judge Watson (June 26, 2003)

Plaintiff Zurla filed his complaint, and then made three revisions & amendments as follows:

(1) COMPLAINT (filed 1-29-2003) (App. 2a).
(2) COMPLAINT REVISED 2-11-2003 (App. 3a).
(3) REVISED COMPLAINT 3-13-2003 (App. 4a).
(4) AMENDED COMPLAINT 4-9-2003 (App. 5a).

The changes were made to improve the wording; i.e., to better state a cause of action. Petitioner contends that while all four complaints state a cause for action, the 4th and final one, the Amended Complaint, was very good. Petitioner contends that all four complaints; (1) identify defendant's illegal act; (2) state how defendants act deprives plaintiff of his right, to choose to walk, and, the right to walk, at defendants five public golf courses; (3) show that this act deprives plaintiff of his right of liberty, which is protected by the 14th Amend. to the Constitution.

But, on June 26, 2003 Circuit Court Judge Watson wrote a letter and his 1st dismissal order granting dismissal of plaintiff's Amended Complaint, and giving plaintiff 20 days to amend and re-file a Second Amended Complaint. This 1st dismissal order says, "The Amended Complaint fails to state a cause of action, as it does not identify a particular right, privilege, or immunity secured by the Constitution." Petitioner contends this is Judge Watson's 1st error, and offers the following to support this contention; Petitioner contends his Amended Complaint does state a cause of action; it says, "Mandating golf cart riding requirement at the five afore-mentioned municipal golf courses, denies plaintiff walking access, or, restricts plaintiff's walking **privileges**, at these public facilities, thus violating plaintiff's privileges and **right of liberty** under the 14th Amend. to the Const." Hence,

Petitioner contends this is Judge Watson's 1st error; because, Judge Watson should not have dismissed this case; as the Amended Complaint does state a cause of action and identifies deprived privileges and rights.

Thus, petitioner contends the answers to the questions are; (1) YES, Plaintiff's Amended Complaint does state a cause of action; (2) YES, plaintiff's Amended Complaint identifies plaintiff's deprived privileges, rights and liberty interest that are protected by the Constitution; (3) YES, Plaintiff's Amended Complaint identifies defendant's illegal and un-Constitutional act of mandating golf carts on public land. (4) YES, Judge Watson erred in DISMISSING plaintiff's Amended Complaint; and then giving plaintiff 20 days to amend and re-file a Second Amended Complaint.

About June 28, 2003 Daytona's attorney Ben Gross phoned me, Plaintiff Zurla, and asked Zurla to attend an informal conference in Judge Watson's chambers during the last few days of June or the first week in July. In that informal conference in Judge Watson's chambers, both defendants read from their MOTIONS TO DISMISS, (Plaintiff's Amended Complaint fails to state a cause of action. You're amended complaint fails to identify a deprived liberty interest protected by the 14th Amend. to the Constitution); this is basically what both defense attorneys had said in all ten of their MOTIONS TO DISMISS. Judge Watson then looked at me, Plaintiff Zurla, and said, (I agrees with the defendants, your Amended Complaint does not state a cause of action; because, it fails to identify a Constitutionally protected liberty interest that you are being deprived of. Don't you have a lawyer friend, or play golf with a lawyer, or know any lawyer that can help you correctly amend and rewrite this complaint?) Being an unsure novice filing my first complaint, what could I do? So, even though I thought the Amended Complaint did state

a cause of action, Judge Watson said I had failed. Wondering what does the Judge want, I got weary. Back then I had not figured it out, now I know. Plaintiff contends Judge Watson was not going to write a final dismissal order of the complaint until it was amended and did not state a cause of action. But back then I followed the Judges orders and hired a lawyer to amend and re-write a second amended complaint. This second amended complaint was filed.

On Tuesday, 9:45 A.M., May 3, 2005 I went to Judge Watson's office to verify the exact time of our conference in early July-2003. I felt I needed the data for this petition. Judge Watson was in his conference room, I believe, waiting for some people to arrive for a conference. He overheard me request to see the scheduling book (log) to verify the time and date of the conference in July of 2003. I heard the Judge whispering to the officer. Soon thereafter the officer came into the office and took the log away from me and would not allow me to look at it. The officer then ordered me to leave. The deputy's name was, Deputy Bill Wright. The secretary's name was, Sherry Sallade. From the quick look I had at the log, I believe the entry had already been erased. Since the arrangements for the conference were made by phone and Judge Watson would not let me look at the scheduling log, I assume the defendants and the Judge deny the conference took place. But the conference did take place.

Alleged 2nd error of Judge Watson (Oct. 10,2003)

On (Oct. 10, 2003)(App. 8a), Judge Watson signed a 2nd dismissal order. On page 4, Judge Watson says, "Plaintiff has been afforded three opportunities to state a cause of action, all without success." Plaintiff vehemently disagrees with this statement! Plaintiff contends that this

statement is Judge Watson's 2nd error. Petitioner contends that he had succeeded four times at stating a cause of action; because, all four complaints state a cause of action. Petitioner contends all four of these Complaints do identify deprived rights and liberty interest that are protected by the Constitution. Most importantly, Petitioner contends that the Amended Complaint, that Judge Watson DISMISSED with the 1st dismissal order, did an excellent job of stating a cause of action; as it does identify privileges, rights and liberty interest which are protected by the Constitution.

Petitioner contends the answer to question (5) is, YES, Judge Watson erred in the 2nd dismissal order when he said, "Plaintiff has been afforded three opportunities to state a cause for action, all without success." Petitioner contends his DISMISSED Amended Complaint does state a cause for action and should not have been dismissed.

Petitioner has had difficulty understanding the decisions rendered by the Florida courts. Twice the dismissals did not say why the case was being dismissed; only that it was being dismissed. In the other two Florida Court dismissals the Judges signed the defendants MOTION TO DISMISS; and these MOTION'S TO DISMISS contained mostly insignificant mumble, jumble. Petitioner finally realizes that the only significant thing in the Circuit Court final ruling, MOTION TO DISMISS, (Oct. 10, 2003) (App. 8a) (2nd dismissal order) is; "Plaintiff has been afforded three opportunities to state a cause of action, all without success. The Court concludes that in light of the applicable principles of law discussed above, further amendments to the complaint would be futile." To this petitioner says:

Regardless what Judge Watson says in his 1ST dismissal order; and regardless what defendants and/or Judge Watson say about the conference during the first week of

July, 2003; and regardless what the defendants and/or Judge Watson say in the 2nd dismissal order; Petitioner emphatically and unequivocally contends; Petitioners Amended Complaint does **state a cause for action**, because it **identifies defendants illegal act**, and **identifies petitioners deprived liberty interest protected by the Constitution**; Therefore, Petitioner Zurla contends, Judge Watson erred when he issued the 1st dismissal order dismissing plaintiff's Amended Complaint and ordering plaintiff to amend and re-file it.

CONCLUSION

For the foregoing reasons, this petition for a rehearing on a writ of certiorari should be granted; or, send this case back to a Florida court; (1) with instructions for a proper decision; (2) with instructions to re-activate the improperly dismissed Amended Complaint.

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Respectfully Submitted,

Daniel E Zurla

Daniel E. Zurla
Petitioner, pro se
2451 Long Grove Lane
Port Orange, FL32129
(386) 760-0151

May 12, 2005

APPENDIX

Supreme Court of the United States

April 18, 2005

Mr. Daniel E. Zurla
3751 Long Grove Lane
Port Orange, FL 32129

Re: Daniel E. Zurla
v. City of Daytona Beach, Florida, et al.
No. 04-1101

The petition for a writ of certiorari is denied.

s/William K. Suter, Clerk

Daniel E. Zurla, Plaintiff, pro se,

V

The City of Daytona Beach, Fla., et al.
No. 2003-30136 CICI

Seventh Judicial Circuit Court, Volusia Co. Fla.

COMPLAINT

Item 3. Both cities make rules that deny citizens their right to choose if they want to walk or ride a cart on the public golf courses these cities operate. This violates the 14th Amend. to the Constitution, (No state shall or enforce any law which abridge the privileges; nor shall any state deprive an person of liberty.) By making these rules the defendants are abridging plaintiff's privileges and right of free choice (liberty). After all **Liberty** is **freedom of choice without unjust of undue government control**.

Daniel E. Zurla, Plaintiff, pro se,

V

The City of Daytona Beach, Fla., et al.
No. 2003-30136 CICI

Seventh Judicial Circuit Court, Volusia Co. Fla.

COMPLAINT REVISED 2-11-2003

Item 4 & 6. The defendant cities five municipal golf courses prohibit people of their right to choose between cart riding or walking at these public golf courses;

Item 7. Prohibiting people the right to choose between riding and walking violates the peoples rights as follows;
a. The 14th Amend. to the Constitution by abridging the privileges of citizens of the US; depriving people of Liberty;

s/Daniel E. Zurla, Plaintiff

Daniel E. Zurla, Plaintiff, pro se,

V

The City of Daytona Beach, Fla., et al,
No. 2003-30136 CICI

Seventh Judicial Circuit Court, Volusia Co. Fla.

RESPONSE TO BOTH CITIES MOTION TO DISMISS, OR A MORE DEFINITE STATEMENT OF FACTS THAT SHOW CAUSE OF ACTION

REVISED COMPLAINT MARCH 13, 2003

Items # 2,3,4,5&6. The two cities operate five municipal golf courses, which make rules that mandate cart riding during certain hours and circumstances;

Item 7. Making rules that mandate cart riding at public golf courses deprives people of their Civil Right to choose between cart riding or walking as follows; (a)The 14th Amend. to the Constitution, by the city making rules that abridge the privileges of citizens of the US; depriving people of Liberty;

s/Daniel E. Zurla, Plaintiff, pro se.

Daniel E. Zurla, Plaintiff, pro se,

V

The City of Daytona Beach, Fla., et al.
No. 2003-30136 CICI

Seventh Judicial Circuit Court, Volusia Co. Fla.

AMENDED COMPLAINT
April 9, 2003

Item 4 & 6. The defendant cities five municipal golf course make rules that mandate golf cart riding during certain hours and circumstances.

Item 7. Mandating golf cart riding requirement at the five afore-mentioned municipal golf courses, denies plaintiff walking access, or, restricts plaintiff's walking privileges, at these public facilities, thus violating plaintiff's **privileges** and **right of liberty** under the 14th Amend. to the Const.

Item 8. The cities action of mandating golf cart riding at municipal golf courses is unreasonable and not for the public good.

s/Daniel E. Zurla, Plaintiff.

Seventh Judicial Circuit Court
State of Florida

June 26, 2003

Daniel E. Zurla, Plaintiff, pro se,

v.

City of Daytona Beach and City of Port Orange

Case Number 2003-30136-CICI

Gentlemen:

Enclosed is your copy of my Order entered on June 26, 2003 which grants dismissal of the case without prejudice and gives the plaintiff 20 days to amend and re-file a Second Complaint.

s/John W. Watson, III
Circuit Court Judge

Seventh Judicial Circuit Court, Volusia Co., Florida

Daniel E. Zurla, Plaintiff, pro se,

V

City of Daytona Beach, Fla., et al,

No. 2003-30136 CICI

ORDER

The amended complaint fails to state a cause of action, as it does not identify a particular right, privilege, or immunity secured by the US Constitution and federal statutes. Specifically, Plaintiff has not alleged ultimate facts demonstrating that, in regulating the fashion in which golfers transport themselves around the five mentioned golf courses, the Defendants have violated Plaintiff's rights, privileges, or immunities secured by the US Constitution and federal statutes.

ORDERED AND ADJUDGED:

(1) This Court GRANTS DISMISSAL WITHOUT PREJUDICE.

(2) Plaintiff is given twenty (20) days from the date of this order to amend and re-file a second Amended Complaint.

DONE AND ORDERED, this 26th day of June, 2003.

s/John W. Watson, III
CIRCUIT JUDGE

Seventh Judicial Circuit Court
Florida

Daniel E. Zurla, Plaintiff, pro se,

V

The City of Daytona Beach &
The City of Port Orange, Defendants.

ORDERGRANTING DEFENDANTS'
MOTION TO DISMISS

On page 2 defendants say, "The Second Amended Complaint fails to specifically identify a liberty interest protected by the United States Constitution.

On page 4, the final page, defendants say, "Plaintiff has been afforded three opportunities to state a cause of action, all without success. The Court concludes that in light of the applicable principles of law discussed above, further amendments to the complaint would be futile.

Accordingly, it is hereby ORDERED AND ADJUDGED as follows:

Defendant THE CITY OF DAYTONA BEACH's & THE CITY OF PORT ORANGE'S Motion to Dismiss Second Amended Complaint shall be, and the same is hereby GRANTED.

Plaintiff's Second Amended Complaint is hereby DISMISSED WITH PREJUDICE.

SIGNED & DATED Oct. 10. 2003
s/JOHN W. WATSON III